

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

SEALING SYSTEMS, INC.,

Plaintiff,

v.

ADAPTOR, INC.,

Defendant.

Case No.

JURY TRIAL DEMANDED

5,876,533

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Sealing Systems, Inc. ("Sealing Systems"), by and through its undersigned attorneys, hereby brings the following claims against Defendant Adaptor, Inc. ("Defendant") as follows:

THE PARTIES

1. Sealing Systems, Inc. is a Minnesota corporation with its principal place of business in Loretto, Minnesota.
2. Upon information and belief, Defendant is a Wisconsin corporation with its principal place of business in West Allis, Wisconsin.
3. Upon information and belief, Defendant does business in the District and maintains continuous and systematic contacts with the State and Minnesota and its residents.

JURISDICTION AND VENUE

3. This action arises under the Patent Act of the United States, 35 U.S.C. § 1, *et seq.*
4. This Court has jurisdiction over Sealing System's claims pursuant to 28 U.S.C. §§ 1331 and 1338.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and /or 1400.

FACTS

6. Sealing Systems is the owner of United States Patent Nos. 5,876,533, issued on March 2, 1999 (the "533 Patent"), which is entitled "method of sealing a manhole riser and a catch basin and apparatus for same." A true and correct copy of the '533 Patent is attached hereto as Exhibit A and incorporated herein by reference.

7. Upon information and belief, Defendant imports, manufactures, offers, uses, sells, and distributes manhole sealing assemblies and instructs customers to use the method of sealing a manhole riser with the manhole sealing assemblies, described by and claimed in the '533 Patent, in this District and elsewhere in interstate commerce.

8. Defendant has, without authorization from Sealing Systems, imported, manufactured, used, and sold, and is continuing to import, manufacture, use, and sell the products and methods that infringe one or more claims of the '533 Patent.

COUNT I

9. Sealing Systems incorporates by reference, as if fully set forth, each of the allegations set forth in paragraphs 1 through 8, inclusive.

10. Upon information and belief, Defendant has in the past and is still infringing one or more of the claims of the '533 Patent by importing, manufacturing, using, selling, and/or offering for sale, within the United States, manhole sealing assembly products that embody the invention claimed in the '533 Patent, or by contributing to or inducing infringement of those claims, in violation of 35 U.S.C. § 271.

11. Upon information and belief, Defendant has, without authorization or license from Sealing Systems, used, and is continuing to use installation methods of manhole sealing assembly products, and similar methods which infringe the '533 Patent, and has knowingly and actively induced others to directly infringe the '533 Patent by practicing methods of installing manhole sealing assembly products claimed in the '533 Patent.

12. Upon information and belief, Defendant had actual knowledge of the '533 Patent prior to manufacturing, importing, using, selling, or offering for sale of the infringing devices.

13. Sealing Systems designs, produces, sells, and offers for sale manhole riser sealing systems that embody the inventions claimed in the '533 Patent.

14. Defendant has been provided notice of the '533 Patent and of Defendant's infringement of the same. Despite this notice, Defendant continues to infringe the '533 Patent either directly, contributory, or by inducing others to infringe the '533 Patent.

15. Defendant has no license from Sealing Systems but has nonetheless deliberately, knowingly, and willfully infringed the '533 Patent, thereby causing irreparable damage to Sealing Systems, which damages should be treated pursuant to 35 U.S.C. §284.

16. Upon information and belief, the aforementioned acts of infringement of the '533 Patent have been and continue to be willfully and deliberately committed by Defendant in bad faith and with full knowledge of Sealing Systems' rights in and to the '533 Patent, making this action an exceptional case within the provisions of 35 U.S.C. §285, and entitling Sealing Systems to recover its attorneys' fees upon prevailing in this action.

17. As a direct result of Defendant's infringement of the '533 Patent, Sealing Systems has suffered irreparable injury and damage and will continue to suffer irreparable injury and

damage for which there is no adequate remedy at law, unless the Court enjoins Defendant from continuing its infringing activities.

JURY DEMANDED

Plaintiff Sealing Systems, Inc. hereby demands a trial by jury on all such triable issues.

WHEREFORE, Plaintiff Sealing Systems, Inc. prays:

(a) That Defendant and its principals, officers, employees, servants, agents, representatives, distributors, attorneys, and all persons, firms or corporations under their control or in active concert or participation with Defendant be permanently enjoined by and restrained from infringing the '533 Patent, or inducing or contributing to the infringement of the patent-in-suit;

(b) That Defendant be ordered to deliver to Plaintiff any and all of Defendant's products that infringe any of the claims of the '533 Patent, pursuant to 35 U.S.C. § 283, and impounding all manhole sealing assemblies that infringe the claims of the '533 Patent in Defendant's possession or under its control;

(c) For a judgment that Defendant has infringed and is presently infringing one or more of the claims of the '533 Patent by the importation, manufacture, use, sale, and/or offer for sale of the infringing products;

(d) For a judgment that Defendant has contributed to and/or induced others to infringe the '533 Patent by the importation, manufacture, use, sale, and/or offer for sale of the infringing products;

(e) For an accounting of all damages resulting from such infringement, including an accounting of all profits derived from use of the accused infringing devices,

and for an award of up to three (3) times the amount of damages found and assessed pursuant to 35 U.S.C. § 284;

- (f) For an award to Plaintiff of all costs, interest and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285; and
- (g) For such other and further relief as the Court deems just and proper.

By: /s/ W.C. Blanton

and

Michael R. Annis
(application for admission pending)
mike.annis@huschblackwell.com
Robert A. Haldiman
(application for admission pending)
robert.haldiman@huschblackwell.com
Husch Blackwell Sanders LLP
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
T: 314-480-1500
F: 314-480-1505

Attorneys for Plaintiff Sealing Systems, Inc.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

SEALING SYSTEMS, INC.

DEFENDANTS

ADAPTOR, INC.

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Milwaukee County, WI
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

W.C. Blanton, Husch Blackwell Sanders LLP 4801 Main Street
Suite 1000 Kansas City, MO 64112 Phone: 816-983-8000

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):
35 U.S.C. § 1, et seq, 28 U.S.C. § 2201 et seq

Brief description of cause:
Patent Infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CV, PATENT, PHV

U.S. District Court
District of Minnesota (DMN)
CIVIL DOCKET FOR CASE #: 0:10-cv-00835-JMR-AJB
Internal Use Only

Sealing Systems, Inc. v. Adaptor, Inc.
Assigned to: Judge James M. Rosenbaum
Referred to: Magistrate Judge Arthur J. Boylan
Cause: 28:1338 Patent Infringement

Date Filed: 03/17/2010
Jury Demand: Plaintiff
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

Sealing Systems, Inc.

represented by **Michael-NA R. Annis**
Not Admitted
ATTORNEY TO BE NOTICED

Robert-NA A. Haldiman
Not Admitted
ATTORNEY TO BE NOTICED

V.

Defendant

Adaptor, Inc.

Date Filed	#	Docket Text
03/17/2010	<u>1</u>	COMPLAINT against Adaptor, Inc. (Filing fee \$ 350 receipt number 4043468.) assigned to Judge James M. Rosenbaum per Patent List referred to Magistrate Judge Arthur J. Boylan. Filed by Sealing Systems, Inc. (Attachments: # <u>1</u> Civil Cover Sheet) (MMP) (Entered: 03/17/2010)
03/17/2010		Summons Issued as to Adaptor, Inc. (MMP) (Entered: 03/17/2010)
03/17/2010		(Court only) *** Copy of complaint sent to the Patent Office. (MMP) (Entered: 03/17/2010)
03/17/2010	<u>2</u>	RULE 7.1 DISCLOSURE STATEMENT by Sealing Systems, Inc. that there is no such parent or publicly held corporation to report. (MMP) (Entered: 03/17/2010)
03/17/2010	1 <u>3</u>	Motion for Admission Pro Hac Vice/Permission for Attorney Robert C. Haldiman a Non-Resident to Serve as Local Counsel by Sealing Systems, Inc. (MMP) (Entered: 03/17/2010)
03/17/2010	1 <u>4</u>	MOTION For Admission Pro Hac Vice by Michael R. Annis for Permission for a Non-Resident to Serve as Local Counsel by Sealing Systems, Inc. (MMP)

(Entered: 03/17/2010)